

### **REMARKS**

Claims 1-7, 9-55 were previously pending in this application. By this amendment, Applicant is canceling claims 41-54 without prejudice or disclaimer. Claims , 2, 9-11, 13, 17, 28-29, 33-35 and 55 have been amended. New claims 56-73 have been added. As a result claims 1-7, 9-40, 55-73 are pending for examination with claims 1, 13, 16, 18 and 62 being independent claims.

### **Allowable Subject Matter**

Applicant acknowledges that claims 16-17 and 35-40 have been indicated as allowed. As confirmed in a telephone conference with the Examiner on February 18, 2004, claims 16-17 are allowed, as indicated in the Office Action Summary and on page 8 of the Office Action; and mention of a rejection of claims 16-17 (as appears on the top of page 7 of the Office Action) was accidental.

Additionally, claims 4, 21, 28-29 and 45-48 have been indicated as containing allowable subject matter. The Applicant has deferred rewriting any dependent claims in independent form.

### **Rejections Under 35 U.S.C. §103**

#### **I. Claims 1-3, 5-7, 9-12, 18-20, 22-27, 41-44 and 49-55**

The Office Action rejected claims 1-3, 5-7, 9-12, 18-20, 22-27, 41-44 and 49-55 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 1,423,590 to Zimmerman (hereinafter Zimmerman) in view of U.S. Patent No. 1,519,380 to Kochanski (hereinafter Kochanski).

#### **A. Regarding claims 1-3, 5-7, 9-12 and 55**

The Office Action states that Zimmerman discloses a fastener comprising a housing 2 sized and adapted to mate with a fastening element 4, and a latch 10 positioned relative to the housing to retain the fastening element within the housing. The Office Action acknowledges that Zimmerman fails to disclose that the depressible latch is positioned relative to the housing to retain the fastening element by interference with a lateral surface of the fastening element, as recited in claim 1. However, the Office Action states that Kochanski discloses a fastener having a latch retaining a fastening element by interference with a lateral surface of the fastening

element. The Office Action alleges that it would have been obvious to have the latch of Zimmerman interfere with a lateral surface of the fastening element as taught by Kochanski, in order to prevent the fastening element from being accidentally disconnected from the fastener. The Applicant responds as follows.

Zimmerman discloses a fastener including a tongue 10 that retains a complementary member 4 by pressing against the underside of the complementary member 5 (see Fig. 3 of Zimmerman). To achieve fastening, a head 4 of the complementary member rides over the tongue until it reaches a recess in a socket 2, formed by an end wall 9 and a flange 11. (lines 56-60.) The head is sprung up into the recess so that the complementary member cannot become accidentally detached. (lines 62-65.) Further, Zimmerman states that it is an important feature of his invention that the head is sprung into the recess of the fastening device because, otherwise, there would be a danger of accidental detachment. (lines 68-75.)

Kochanski discloses a fastener including a base member having a tongue 14 that retains a button. The button is connected to the base member by passing the neck of the button through a slot and into a rounded bottom portion of the base member. (lines 76-79.) The head 11 of the button passes the tongue 14 by displacing (i.e., springing) the tongue back. (lines 79-82.) After the button passes the tongue, the tongue springs back into a normal (i.e., un-sprung) position. (lines 82-84.) In the normal position, the tongue prevents the button from being accidentally disconnected from the base member by preventing the button from accidentally sliding along the slot and out of the base member. (lines 84-85.) However, Kochanski states that the button may be disconnected by moving the button along the slot and applying sufficient force to the button to force back the tongue as the head of the button is moved past the tongue. (lines 86-90.)

i. The Combination of Zimmerman and Kochanski is Improper

Zimmerman discloses a fastener having a tongue configured and arranged to remain actuated when the button is being held, and to press the button into a recess by applying force to the underside of the button. Accordingly, the tongue is located beneath the recess in which the button is to be maintained. By contrast, Kochanski discloses a fastener having a tongue that is first actuated to allow the button to pass by, and then unactuated when the button in a fastened position. The tongue remains in an unactuated state when the button in a fastened position and is

located alongside of the button when it is in a fastened state, to prevent the button from accidentally becoming disconnected.

Because Zimmerman teaches a structure in which the tongue is underneath the button in a fastened position so as to press a button into a recess, it teaches away from modification in view of Kochanski in the manner proposed in the Office Action (i.e., such that the tongue contacts a lateral surface of the button). If Zimmerman were modified in the manner suggested in the Office Action, it would modify the very nature of the fastening mechanism proposed by Zimmerman. Accordingly, the combination of Zimmerman and Kochanski as proposed in the Office Action is improper and rejections based on the combination should be withdrawn.

ii. Claims 1-3, 5-7, 9-12 and 55 are patentable over the combination of Zimmerman and Kochanski

Even assuming that Zimmerman and Kochanski are properly combined, which they are not, claim 1 is patentable over the combination. Claim 1 has been amended to recite “a depressable latch positioned relative to the housing to retain the fastening element by interference with a lateral surface of the fastening element the depressable latch configured such that the fastening element is inhibited from escaping absent an external force to depress the latch.” By contrast, the tongue disclosed in Kochanski is adapted to move out of the way of the button upon pulling the button with sufficient force such that the head of the button is moved past the tongue, thereby unfastening the button. (lines 86-90.)

Support for the structure recited in claim 1 is provided on page 5, lines 22-24. One example of such a structure is provided in Fig. 6, where latch 20 is configured with a suitably shaped surface at open end 60 to inhibit the fastener element 18 from detaching from the housing until an external force is applied to the latch. Fig. 7 illustrates an example of an external force being applied to the latch, namely force applied by a finger. Accordingly, claim 1 patentably distinguishes over the combination of Zimmerman and Kochanski.

Claims 2-3, 5-7, 9-12 and 55 depend from claim 1 and are patentable for at least the same reason as claim 1. Accordingly, withdrawal of the rejection of these claims is respectfully requested.

B. Regarding claims 18-20 and 22-27

The Office Action states that Zimmerman discloses a fastener comprising a housing 2 sized and adapted to mate with a fastening element 4, and a latch 10 positioned relative to the housing to retain the fastening element within the housing, wherein the latch comprises a protrusion having a portion corresponding to the shape of the fastening elements. The Office Action acknowledges that Zimmerman fails to disclose a latch comprising a first portion to which pressure is applied when the fastening element is moved into engagement with the fastener and a second portion upon which the fastening element rests when in an engaged position. Citing col. 2, lines 79-86 of Kochanski, the Office Action indicates that Kochanski teaches a fastener having a latch 14 with a first portion to which pressure is applied when the fastening element is moved into engagement with the fastener and a second portion upon which the fastening element rests when in an engaged position. Further, citing Figs. 6 and 8 of Kochanski, the Office Action indicates that Kochanski discloses a latch having at least a part of the first portion being disposed at a distance from a surface which is greater than the distance from the second portion to the surface. The Office Action alleges that it would have been obvious to a person ordinary skill in the art to modify the latch in Zimmerman to have a first portion and a second portion as taught by Kochanski, in order to prevent the fastening element from being accidentally disconnected from the fastener.

i. The Combination of Zimmerman and Kochanski is Improper

As indicated above with reference to claim 1 the combination of Zimmerman and Kochanski is improper. Accordingly, the combination of Zimmerman and Kochanski as proposed in the Office Action is improper and rejections of claims 18-20 and 22-27 based on the combination should be withdrawn.

ii. Claims 18-20 and 22-27 are patentable over the combination of Zimmerman and Kochanski

Even assuming that Zimmerman and Kochanski are properly combined, which they are not, claim 18 is patentable over the combination. The Applicant respectfully disagrees with the

statement in the Office Action that col. 2, lines 79-86 of Kochanski discloses a fastener having a latch 14 including a second portion upon which the fastening element rests when in an engaged position. Instead, while Kochanski discloses that head 11 of a button passes tongue 14, and springs the tongue back, it fails to teach that the button rests upon any portion of tongue 14 after attaining an engaged position. Accordingly, claim 18 patentably distinguishes over the combination of Zimmerman and Kochanski.

Claims 19-20 and 22-27 depend from claim 18 and are patentable for at least the same reasons as claim 18. Accordingly, withdrawal of the rejection of these claims is respectfully requested.

D. Claims 41-44 and 49-54

Claims 41-44 and 49-54 have been canceled without prejudice or disclaimer. Accordingly, the rejections of these claims are moot.

II. Claims 13-15 and 30-34

The Office Action rejected claims 13-15 and 30-34 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,855,033 to Frissen (hereinafter Frissen) in view of Zimmerman and further in view of Kochanski.

The Office Action alleges that Frissen discloses a fastener assembly comprising a fastening element 29, a housing 31 connected to a bladder 23, 25 and sized to mate with a fastening element. The Office Action acknowledges that Frissen fails to disclose a latch positioned relative to the housing to retain the fastening element within the housing. However, the Office Action states that Zimmerman discloses a fastener assembly having a latch 10 positioned relative to a housing 9 to retain a fastening element 4. The Office Action alleges that it would have been obvious to one of ordinary skill in the art to employ a fastening assembly having a latch positioned relative to a housing 9 in order to prevent the components from becoming unintentionally disconnected. The Office Action further acknowledges that Frissen fails to disclose that the depressable latch is positioned relative to the housing to retain the fastening element by interference with a lateral surface of the fastening element. However, the Office Action states that Kochanski discloses a fastener having a latch retaining a fastening element by interference with a lateral surface of the fastening element. The Office alleges that it

would have been obvious to have the lateral surface of the fastening element of Frissen interfere with the fastening element as taught by Kochanski in order to prevent the fastening element from being accidentally disconnected from the fastener.

A. The Combination of Zimmerman and Kochanski is Improper

The combination of Zimmerman and Kochanski as proposed in the Office Action is improper and should be withdrawn. In fact, as indicated above with reference to claim 1, Zimmerman teaches away from modification to have the tongue contact a lateral surface of a fastening element. Accordingly, the combination of Frissen and Zimmerman is improper and the rejection of claims 13-15 and 30-34 should be removed.

B. The Combination of Frissen and Zimmerman is Improper

Additionally, as indicated in the Applicant's response to the Office Action of March 17, 2003, the combination of Frissen and Zimmerman is improper. Frissen discloses the use of fasteners on an inflatable beach device. However, neither Frissen nor Zimmerman disclose or suggest that a latched faster, as disclosed in Zimmerman, should be combined with the inflatable beach device of Frissen. The Office Action has engaged in impermissible hindsight using the teaching of the application disclosure.

Furthermore, Zimmerman discloses a fastener including a housing that is stitched to an object using holes 14 for attachment. Accordingly, the asserted combination would not work, because attachment of Zimmerman's fastener by stitching is inappropriate for use with an inflatable bladder to avoid leakage of the contained air. Accordingly, the combination of Frissen and Zimmerman is improper and the rejection of claims 13-15 and 30-34 should be removed.

C. Claims 13-15 and 30-34 are patentable over the combination of Frissen, Zimmerman and Kochanski

Even assuming that Frissen, Zimmerman and Kochanski are properly combined, which they are not, claim 13 is patentable over the combination. Claim 13 has been amended in a manner similar to claim 1. That is, claim 13 as amended recites "a depressable latch positioned relative to the housing to retain the fastening element by interference with a lateral surface of the fastening element the depressable latch configured such that the fastening element is

inhibited from escaping absent an external force to depress the latch.” As stated above with reference to claim 1, the tongue disclosed in Kochanski is adapted to move out of the way of the button upon pulling the pulling with sufficient force such that the head of the button is moved past the tongue. (lines 86-90.) Further, Frissen does not cure the deficiencies of Zimmerman and Kochansky in regard to inhibiting the escape of a fastening element. Accordingly, claim 13 is patentable over the combination of Frissen, Zimmerman and Kochanski.

Also, as indicated in the response to the Office Action of March 17, 2003, the Office Action's characterization of the Frissen is incorrect. Frissen is directed to an inflatable beach item which allows a beachgoer to feel the sand beneath him. (col. 1, lines 32-34.) The beach item has a thin-walled flexible plane made up of a central part 2 and a peripheral part 25. Only the peripheral part forms an inflatable bladder, so that the peripheral part is raised relative to the central part to protect the beachgoer and items placed between the peripheral parts from blowing sand. (col. 1, lines 53-55.) Accordingly, as can be seen in Fig. 2 of Frissen, contrary to the assertions in the Office Action, the fastener 29 is not connected to an inflatable bladder, such that upon combination with Zimmerman “a housing ... [is] connected to the bladder,” as recited in claim 13. Instead, fastener 29 is connected to an uninflatable inner portion of the beach item. Accordingly, claim 13 patentably distinguishes over the combination of Zimmerman and Kochanski.

Claims 14-15 and 30-34 depend from claim 13 and are patentable for at least the same reason as claim 13. Accordingly, withdrawal of the rejection of these claims is respectfully requested.

### **CONCLUSION**

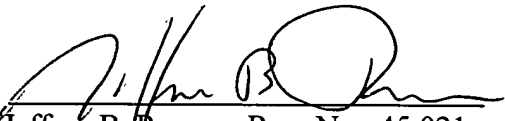
In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

Respectfully submitted,

*Robert B. Chaffee, Applicant*

By:

  
Jeffrey B. Powers, Reg. No. 45,021  
John N. Anastasi, Reg. No. 37,765  
LOWRIE, LANDO & ANASTASI, LLP  
One Main Street  
Cambridge, Massachusetts 02142  
United States of America  
Telephone: 617-395-7000  
Facsimile: 617-395-7070

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